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SMITH'S FOOD & DRUG CENTERS, INC.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FRANTZIE FRILOUX;

Plaintiff,

-vs-

SMITH'S FOOD & DRUG CENTERS, INC.
aka KROGER, a foreign corporation; DOES I
through X; and ROE ENTITIES I through X.

Defendants.

Case No. 2:23-cv-00338-CDS-NJK

**STIPULATION FOR EXTENSION OF
DISCOVERY DEADLINES
(FIRST REQUEST)**

Good cause is present for the stipulation under LR 26-3.

Plaintiff is alleging significant injuries in this case. In her most recent disclosure, served on April 20, 2023, Plaintiff alleged her past medical bills are \$71,687.00. Available medical records suggest Plaintiff may have prior underlying conditions that are relevant to the treatment she received subsequent to the subject incident.

Moreover, Plaintiff requested a two-week extension to respond to written discovery, which Defendant granted. Plaintiff only recently served Defendant with responses to written discovery on May 30, 2023. Thus, additional time is needed to take Plaintiff's deposition – scheduled for June 22, 2023 – and gather additional medical records.

Furthermore, additional time is needed to collect Plaintiff's voluminous medical records and allow more time for expert disclosures. Just given the sheer number of medical providers involved in

this case, there is not enough time to collect these records and forward them to the expert witnesses so that they can include the records in their initial expert reports.

IT IS HEREBY STIPULATED AND AGREED, by and between Doris Nehme-Tomalka, Esq. of the law firm NEHME-TOMALKA & ASSOCIATES, as counsel for Plaintiff FRANTZIE FRILOUX, and Andre T. Marques, Esq., of the law firm COOPER LEVENSON, P.A., as counsel for Defendant SMITH'S FOOD & DRUG CENTERS, INC., that discovery deadlines in this matter be continued for a period of 60 days to allow the parties additional time to complete discovery.

STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED.

1. The parties participated in the Fed. R. Civ. P. 26(f) conference on March 10, 2023;
2. Defendant served its Fed. R. Civ. P. 26.1(a)(1) initial disclosure on April 4, 2023;
3. Defendant served Plaintiff with written discovery including interrogatories, requests for admissions, and requests for production of documents on April 18, 2023;
4. Plaintiff served her Fed. R. Civ. P. 26.1(a)(1) initial disclosure on April 20, 2023;
5. Plaintiff responded to Defendant's written discovery on May 30, 2023;
6. Defendant has sent authorizations to Plaintiff, and is still in the process of collecting all of Plaintiff's medical records.

A. SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE COMPLETED.

1. Deposition of Plaintiff, scheduled for June 22, 2023.
2. Deposition of SMITH'S fact witnesses.
3. Deposition of Plaintiff treating physicians.
4. Deposition of SMITH'S Rule 30(b)(6) corporate representative.
5. Defendant to identify and collect Plaintiff's medical records.
6. Parties to retain and designate expert witnesses.
7. Depositions of expert witnesses.

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**B. REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED
WITHIN THE DEADLINES CONTAINED IN THE DISCOVERY SCHEDULING
ORDER**

Pursuant to LR 26-3, good cause is present for the stipulation. This is a premise liability action and Plaintiff is alleging significant injuries. Recently, Plaintiff served her discovery responses, and Defendant has noticed her deposition. Defendant will need additional time to send authorizations to Plaintiff's medical providers and gather and review Plaintiff's medical records.

Therefore, the parties in this matter respectfully request a sixty (60) day extension of discovery deadlines to allow enough time for the parties to gather medical records, depose witnesses, including treating medical providers, and to complete discovery as a whole.

Simply put, the Defendant cannot take Plaintiff's deposition, recover all of Plaintiff's relevant medical records, and have those records examined by its expert witnesses for their reports under the current Scheduling Order.

C. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY

As a result of the above, it is requested that the discovery deadlines in this case be continued 60 days from their present deadlines.

1. Discovery Cut-Off Date: The parties jointly propose that the discovery cut-off date be extended 61 days from its present deadline of August 30, 2023, to **Monday, October 30, 2023**.

2. Amending the Pleadings and Adding Parties: The parties do not seek to extend this deadline, but reserve the right to bring an appropriate motion in the future in the unlikely event that new information is found in discovery that creates the need to amend the pleadings.

3. Fed. R. Civ. P. 2(a)(2) Disclosures (Experts): The parties jointly propose that the initial expert disclosure deadline be extended 60 days from its present deadline of June 30, 2023, to **Tuesday, August 29, 2023**; the rebuttal expert disclosure be extended 59 days from its present deadline of July 31, 2023, to **Thursday, September 28, 2023**.

4. Dispositive Motions: In the event that the discovery period is extended from the discovery cut-off date set forth in the proposed Discovery Plan and Scheduling Order, the date for filing dispositive motions shall be extended 61 days from its present deadline of September 29, 2023, to

1 **Wednesday, November 29, 2023.**

2 **5. Pretrial Order:** The date for filing the joint pretrial order shall not be later than
 3 **December 29, 2023**, 30 days after the cut-off date for filing dispositive motions. In the event that
 4 dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days
 5 after decision on the dispositive motions or until further order of the court. In the further event that the
 6 discovery period is extended from the discovery cut-off date set forth in the Discovery Plan and
 7 Scheduling Order, the date for filing the joint pretrial order shall be extended in accordance with the
 8 time periods set forth in this paragraph.

9 **6. Fed. R. Civ. P. 26(a)(3) Disclosures:** The disclosures required by Fed. R. Civ. P.
 10 26(a)(3), and any objections thereto, shall be included in the joint pretrial order.

11 **7. Alternative Dispute Resolution:** Counsel for the parties certify that they met and
 12 conferred about the possibility of using alternative dispute resolution including mediation, arbitration,
 13 and/or an early neutral evaluation. The parties have not scheduled any such ADR forum at this point, but
 14 agree to reconsider following the disclosure of expert witness reports and after the close of discovery.

15 **8. Alternative Forms of Case Disposition:** The parties certify that they discussed
 16 consenting to trial by a magistrate judge or engaging in the Short Trial Program under Fed. R. Civ. P. 73
 17 and at present do not consent to either alternative form of case disposition.

18 **9. Electronic Evidence:** The parties certify that they have discussed and intend to use
 19 electronic evidence at the trial of this matter and will ensure that said evidence is in an electronic format
 20 compatible with the Court's electronic jury evidence display system. At present, the parties have not
 21 agreed upon any stipulations regarding the use of electronic evidence but will address this issue again in
 22 the Pre-Trial Order.

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10. Extensions or Modifications of the Discovery Plan and Scheduling Order: Any

stipulation or motion must be made no later than 21 days before the subject deadline. Requests to extend discovery deadlines must comply fully with LR 26-3.

Respectfully submitted this 7th day of June, 2023.

NEHME-TOMALKA & ASSOCIATES

COOPER LEVENSON, P.A

/s/ Doris Nehme-Tomalka

/s/ Andre T. Marques

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SMITH'S FOOD & DRUG CENTERS, INC.

ORDER

IT IS SO ORDERED that the discovery deadlines are hereby extended as follows:

Scheduled Event	New Deadlines
Amend Pleadings and add Parties	Closed
Initial Expert Disclosure	August 29, 2023
Disclosure of Rebuttal Experts	September 28, 2023
Discovery Cutoff	October 30, 2023
Dispositive Motions	November 29, 2023
Joint Proposed Pre-trial Order	December 29, 2023


UNITED STATES MAGISTRATE JUDGE
DATED: June 12, 2023